

**UNITED STATES INTERNATIONAL TRADE COMMISSION**  
**Washington, D.C. 20436**

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In the Matter of

**CERTAIN SET-TOP BOXES AND  
COMPONENTS THEREOF**

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) **Inv. No. 337-TA-454**  
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**NOTICE OF DECISIONS TO REVIEW IN PART, TAKE NO POSITION IN PART, AND  
NOT REVIEW IN PART THE ADMINISTRATIVE LAW JUDGES FINAL INITIAL  
DETERMINATION; NOTICE OF DECISIONS TO AFFIRM THREE RULINGS OF THE  
ADMINISTRATIVE LAW JUDGE; NOTICE OF DETERMINATION OF NO  
VIOLATION OF SECTION 337 OF THE TARIFF ACT OF 1930**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review in part, to take no position in part, and to not review in part the final initial determination (“final ID”) issued by the presiding administrative law judge (“ALJ”) on June 21, 2002, finding no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, in the above-captioned investigation. Specifically, the Commission determined to review the issue of the technical prong of the domestic industry as it relates to claim 42 of U.S. Letters Patent 5,809,204 for the purpose of making a finding as to claim 42 of that patent that was omitted by the ALJ. The Commission also determined to take no position on the issue of patent misuse and to not review the remainder of the final ID. Finally, the Commission determined to affirm three ALJ rulings (involving ALJ Order No. 62, an ALJ ruling excluding evidence concerning the doctrine of equivalents, and an ALJ ruling limiting the testimony time of one witness) that were appealed to the Commission by the complainants. In light of these determinations, the Commission determined that there is no violation of section 337 in this investigation.

**FOR FURTHER INFORMATION CONTACT:** Michael Liberman, Esq., or David Wilson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephones (202) 205-3115 or (202) 708-2310, respectively. Copies of the public versions of the final ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD

terminal on (202) 205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS -ON-LINE) at <http://dockets.usitc.gov/eol/public>.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this patent-based investigation, which concerns allegations of unfair acts in violation of section 337 of the Tariff Act of 1930 in the importation and sale of certain set-top boxes, on March 14, 2001. 66 *Fed. Reg.* 15887 (2001). Complainants Gemstar-TV Guide International, Inc. of Pasadena, California, and StarSight Telecast, Inc. of Fremont, California, named Pioneer Corporation, Pioneer North America, Inc., Pioneer Digital Technologies, Inc., Pioneer New Media Technologies, Inc., Scientific-Atlanta, Inc., EchoStar Communications Corporation, and SCI Systems, Inc. as respondents.

The ALJ held an evidentiary hearing from December 3, 2001, through December 19, 2001, and issued his final ID on June 21, 2002, in which he concluded that there was no violation of section 337, based on the following findings: (a) complainants have failed to establish that the asserted claims 18-24, 26-28, 31-33, 36, 42-43, 48-50, 54, 57, 59-61, and 66 of U.S. Letters Patent 4,706,121 (the '121' patent); claims 1, 3, 8, and 10 of United States Patent 5,479,268 (the '268 patent); and claims 1,3, 8, and 10 of U.S. Letters Patent 5,809,204 (the '204 patent) are infringed by respondents; (b) respondents have failed to establish that the asserted claims are not valid; (c) respondents have established that the '121 patent is unenforceable for failure to name a co-inventor; (d) complainants have engaged in patent misuse with respect the '121 patent; (e) no industry exists in the United States, as required by subsection (a)(2) of section 337, that exploits each of the '121, 268, and '204 patents in issue; and (f) there has been an importation of the set-top boxes which are the subject of this investigation.

On July 5, 2002, all parties to this investigation, including the Commission investigative attorney, filed petitions for review of various portions of the final ID. On July 12, 2002, all the parties filed responses to the petitions for review.

Having examined the record in this investigation, including the final ID, the petitions for review, and the responses thereto, the Commission determined that there is no violation of section 337 in this investigation.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) and Subpart G of the Commission's Rules of Practice and Procedure (19 C.F.R. Subpart G, Part 210).

By order of the Commission.

Marilyn R. Abbott  
Secretary to the Commission

Issued: August 29, 2002